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SUBJECT: WHO NEEDS A GOVERNMENT? GUYANA NOT BOTHERED BY  
CONSTITUTIONAL ISSUES

Classified By: POLITICAL OFFICER JOHN E ZAK FOR REASON 1.4(D)

11. (SBU) SUMMARY: The PNCR and AFC have both filed lawsuits challenging the constitutionality of the delay in convening Parliament and of the swearing-in of government ministers before they were formally elected to Parliament. Also, in an unprecedented move President Jagdeo left the country for two weeks without swearing in an Acting President. Although the two leading opposition parties have independently brought court actions questioning whether a legal government currently exists in Guyana, neither is yet making it a big political issue. Jagdeo, along with senior government and party leaders, seems unconcerned by the constitutional issues, raising questions about his campaign commitment to pursue governmental reform after the election. End Summary.

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LAWSUITS CHALLENGE DELAY IN CALLING NEW PARLIAMENT  
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12. (U) People's National Congress Reform (PNCR) Leader Robert Corbin filed a court action September 20 charging that President Jagdeo violated the Constitution when he proclaimed on September 11 that the new Parliament would commence September 28. The PNCR's suit seeks a declaration that the proclamation violates Article 69(1) of the Constitution which requires that Parliament be held no more than four months after the last Parliament was dissolved. The PNCR suit argues that as a result of the constitutional violation, no session of Parliament can be lawfully called.

13. (U) The Alliance for Change (AFC) filed a similar, but less confrontational lawsuit last week. The AFC action asks the High Court to determine whether the President could lawfully convoke Parliament after the constitutional deadline had passed and asks the court to determine the way forward given the apparent constitutional issues. AFC leaders explained that their suit is meant to avoid court challenges to legislation passed by the new Parliament that could be based on grounds that the Parliament had not been properly constituted.

14. (U) Both legal actions are based on a constitutional provision mandating that Parliament must sit within four months of the dissolution of the previous Parliament. As Parliament was dissolved on May 2, the new session should have commenced by September 2.

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APPOINTMENT OF GOVERNMENT MINISTERS ALSO CHALLENGED  
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15. (U) In a separate issue, the PNCR lawsuit also seeks a declaration that the appointment of government ministers, before they were elected Members of Parliament (MP), is unconstitutional. The AFC lawsuit raises similar questions. Under Article 103 of the Constitution, except for four non-voting technocrats, Ministers of Government can only be appointed from duly elected MPs. The election of MPs involves the extraction of names from the party list of candidates and a corresponding declaration by the Chief Elections Officer. In this case, the new Ministers of Government were appointed on September 8 and they took the oath of office the next day, while the declaration of the elected PPP/C MPs was not done until September 13. Some irony is raised by the fact that almost four weeks after the elections, the PNCR still has not extracted its MPs from the PNC/R-1G list of candidates. PNCR Leader Corbin has repeatedly said his party is in no hurry.

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WHO,S PRESIDENT?

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16. (C) The question of who has executive authority during Jagdeo,s September 12-25 sojourn to Singapore and New York is also an issue on the cocktail circuit, but has not yet attracted legal or political attention. Normally when he travels out of country, the President swears in the Prime Minister as Acting President, although any Minister can be tapped for this duty. Currently, there is no Prime Minister until Parliament meets and no Minister was sworn in as Acting President when Jagdeo departed September 12. New Minister of Foreign Trade Henry Jeffrey recently volunteered to DCM that Roger Luncheon verbally tasked him with acting as Foreign

Minister while Insanally is at the UNGA. When Jeffrey,s secretary asked the Office of the President for the normal

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instrument empowering one Minister to act for another, the response came back that there could be no formal authorization because there is no one with executive authority to sign it.

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JAGDEO/PPP UNCONCERNED BY CONSTITUTIONAL CRISIS

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17. (C) Although the appointment of the Ministers of Government prior to their formal election to Parliament and the proclamation summoning Parliament a month after the deadline apparently violate Guyana's Constitution, President Jagdeo and the PPP/C appear impervious to the dilemma. In response to earlier questions regarding the impending constitutional deadline for commencing Parliament, Jagdeo casually stated that "we will take our time and do it well... we are in no rush." In private meetings with the Ambassador, both the Attorney General and Chief Justice of the High Court were quick to dismiss the notion that both Parliament and the newly named Ministers of government were unconstitutional. "We have to have a Parliament", the Attorney General reasoned, "I am sure the court will work it out."

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COMMENT

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18. (C) Just as interesting as the constitutional issues is the PNCR's lack of alacrity in bringing the issue to court. More than three weeks after the election results were announced, the PNCR has yet to extract the names of its 22 MPs from its party list. Informed sources say the PNCR is facing difficulties since it put most of its top guns on the national list, but ended up winning more regional and fewer national seats than expected. The PNCR court challenge appears to be more of a reaction to the AFC suit filed last week than a genuine strike against the government. Indeed,

one PPP/C insider claims that Jagdeo and Corbin reached a private agreement to delay Parliament until the end of September specifically to allow the PNCR time to address its internal problems with allocation of seats.

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